



General Assembly

January Session, 2013

## ***Amendment***

LCO No. 8588

**\*HB0660708588SR0\***

Offered by:  
SEN. KELLY, 21<sup>st</sup> Dist.

To: Subst. House Bill No. 6607

File No. 893

Cal. No. 691

### ***"AN ACT CONCERNING NURSING HOMES."***

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Subsection (d) of section 17b-261a of the general statutes is  
4 repealed and the following is substituted in lieu thereof (*Effective*  
5 *October 1, 2013*):

6 (d) (1) For purposes of this subsection, an "institutionalized  
7 individual" means an individual who has applied for or is receiving  
8 (A) services from a long-term care facility, (B) services from a medical  
9 institution that are equivalent to those services provided in a long-term  
10 care facility, or (C) home and community-based services under a  
11 Medicaid waiver.

12 [(d)] (2) An institutionalized individual shall not be penalized for  
13 the transfer of an asset if the entire amount of the transferred asset is  
14 returned to the institutionalized individual. [The partial return of a  
15 transferred asset shall not result in a reduced penalty period.] A

16 transferee may return any portion of a transferred asset to the  
17 transferor. If any transferred asset is returned to the transferor, the  
18 Department of Social Services shall adjust the penalty period to the  
19 extent permitted by federal law, provided the ending date of the  
20 penalty period as originally determined by the department shall not  
21 change. The department shall consider the entire amount of the  
22 returned asset to be available to the transferor only from the date of  
23 return of the transferred asset, and shall not determine the transferor  
24 to be ineligible in the month the transferred asset is returned, provided  
25 the transferor reduced the returned asset in accordance with federal  
26 law.

27 [(1)] (3) If there are multiple transfers of assets to the same or  
28 different transferees, a return of anything less than the total amount of  
29 the transferred assets from all of the separate transferees shall not  
30 constitute a return of the entire amount of the transferred assets and  
31 shall represent a partial return.

32 [(2) If the circumstances surrounding the transfer of an asset and  
33 return of the entire amount of the asset to the institutionalized  
34 individual indicates to the Department of Social Services that such  
35 individual, such individual's spouse or such individual's authorized  
36 representative intended, from the time the asset was transferred, that  
37 the transferee would subsequently return the asset to such individual,  
38 such individual's spouse or such individual's authorized  
39 representative for the purpose of altering the start of the penalty  
40 period or shifting nursing facility costs, that may have been borne by  
41 such individual, to the Medicaid program, the entire amount of the  
42 returned asset shall be considered available to such individual from  
43 the date of transfer. If such individual demonstrates to the department  
44 that the purpose of the transfer and its subsequent return was not to  
45 alter the penalty period or qualify such individual for Medicaid  
46 eligibility, the entire amount of the returned asset is considered  
47 available to the individual from the date of the return of the  
48 transferred asset.]

49        [(3)] (4) The conveyance and subsequent return of an asset for the  
 50        purpose of shifting costs to the Medicaid program shall be regarded as  
 51        a trust-like device. Such asset shall be considered available for the  
 52        purpose of determining Medicaid eligibility. The conveyance and  
 53        subsequent return of an asset made exclusively for a purpose other  
 54        than to qualify for the payment of long-term care services under the  
 55        Medicaid program shall not be regarded as a trust-like device.

56        [(4) For purposes of this section, an "institutionalized individual"  
 57        means an individual who is receiving (A) services from a long-term  
 58        care facility, (B) services from a medical institution which are  
 59        equivalent to those services provided in a long-term care facility, or (C)  
 60        home and community-based services under a Medicaid waiver.]"

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	October 1, 2013	17b-261a(d)